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 6 Attorneys for Defendants  
 6 SAFER TECHNOLOGIES, INC.,  
 7 CERMA TECHNOLOGY, INC.,  
 7 GEORGE ACKERSON, MARY STRANAHAN,  
 7 NICHOLAS STREIT and EDWARD HALBACH

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 9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 11 SAN JOSE DIVISION

12 MOTOR WORKS LLC,

13 Plaintiff,

14 vs.

15 SAFER TECHNOLOGIES, INC., CERMA  
 16 TECHNOLOGY, INC., GEORGE  
 17 ACKERMAN, MARY STRANAHAN,  
 17 NICHOLAS STREIT, TIM STREIT and  
 18 EDWARD HALBACH,

19 Defendants.

20 Case No.: 08-CV-03608 JW

21 **DEFENDANTS' RENEWED MOTION  
 FOR TEMPORARY RESTRAINING  
 ORDER IN LIGHT OF EVIDENCE JUST  
 OBTAINED**

22 **AND**

23 **NOTICE OF ADDITIONAL EVIDENCE  
 JUST OBTAINED IN SUPPORT OF  
 MOVING PARTIES' REPLY BRIEF IN  
 SUPPORT OF MOTION FOR LEAVE TO  
 FILE COUNTERCLAIMS**

24 Date: March 8, 2010  
 Time: 9:00 a.m.  
 Courtroom: 8, 4<sup>th</sup> Floor  
 Judge: Hon. James Ware

25 TO EACH PARTY AND THEIR ATTORNEY OF RECORD:

26 PLEASE TAKE NOTICE THAT a third party, Daniel M. Godbout, has just confirmed  
 27 that John Murray, Plaintiff Motor Works LLC's principal, did indeed post the subject defamatory  
 28 articles about Defendants Safer Technologies, Inc. ("Safer") and Cerma Technology, Inc.  
 ("CTI"), collectively "Defendants", on the "Ripoff Report" website.

In his declaration, attached as Exhibit “A” to the accompanying declaration of Kristen E. Drake, Mr. Godbout states that Murray “asked for my help with some Rip Off reports that he had filed against companies and products. The Rip Off reports are on the internet on the Rip Off Report web site and are against the products Cermax..., and the companies Safer Technologies...” [Declaration of Daniel M. Godbout (“Godbout Decl.”) at ¶ 2.]

Mr. Godbout further states that Murray was asking for help regarding the internet ranking of the Ripoff Report articles as the “reports he [Murray] filed were having unintended damaging results to his [Murray’s] product and company and against his Cerma Canada Distributor.” [Godbout Dec. at ¶ 3.] Murray wanted Mr. Godbout’s assistance in “lower[ing] the ranking on the reports that were causing him and his distributors damage and/or concern.” Mr. Godbout elected not to assist Mr. Murray. [Godbout Dec. at ¶ 4.]

In light of this new evidence, Defendants Safer and CTI, by and through their undersigned counsel, hereby renew their motion to this Court for a temporary restraining order prohibiting Plaintiff Motor Works LLC (“Motor Works”) and John Murray from posting false, disparaging remarks about Defendants on the website “Ripoff Report”, or any other website or written form of media, and from infringing Defendants’ CERMAX and CERMA ADVANCED LUBRICATION TECHNOLOGY trademarks.

Defendants Safer and CTI bring this application on the ground that immediate and irreparable injury, loss and damage will result to Defendants before notice can be given and the Plaintiff and its attorneys can be heard in opposition, in light of the most recent January 21, 2010 “Ripoff Report” posting. This renewed motion is based on this notice, the accompanying declaration of Kristen E. Drake, which attaches the declaration of Daniel M. Godbout, the Memorandum of Points and Authorities in support of this motion (Docket #68), the Declarations of James M. Hanavan (Docket #74), Jay Erickson (Docket #72), Greg Soderberg (Docket #73), Andy Heintzelman (Docket #70), George Ackerson (Docket #71) and Nicholas Streit (Docket #75), as well as the Reply Declaration of Nicholas Streit (Docket # 81) and the Declaration of Dr. Alvah Bittner (Docket #82).

1 More specifically, Defendants move for an Order to provide the following immediate and  
 2 temporary relief and to show cause, fixing the time for hearing a motion for a preliminary  
 3 injunction:

4 **RELIEF SOUGHT BY DEFENDANTS:**

5 Defendants ask the Court to enjoin Plaintiff Motor Works and John Murray, as well as  
 6 their successors, assigns, officers, agents, directors, servants, employees, salespersons,  
 7 independent contractors, attorneys, corporations, subsidiaries, all other persons or entities directly  
 8 or indirectly under their control or under common control with any of them, and all other persons  
 9 or entities in active concert or participation with any of them who receive actual notice of this  
 10 Order by personal service or otherwise, whether acting directly or through any corporation,  
 11 subsidiary, division, or other device, including but not limited to fictitious business names, and  
 12 each such person from publishing false statements about Defendants, their products or services on  
 13 "Ripoff Report", or any other website or written form of media.

14 Further, Defendants ask the Court to enjoin Plaintiff Motor Works and John Murray as  
 15 well as their successors, assigns, officers, agents, directors, servants, employees, salespersons,  
 16 independent contractors, attorneys, corporations, subsidiaries, all other persons or entities directly  
 17 or indirectly under their control or under common control with any of them, and all other persons  
 18 or entities in active concert or participation with any of them who receive actual notice of this  
 19 Order by personal service or otherwise, whether acting directly or through any corporation,  
 20 subsidiary, division, or other device, including but not limited to fictitious business names, and  
 21 each such person from using or registering any CERMAX and CERMA ADVANCED  
 22 LUBRICATION TECHNOLOGY mark, however spelled or punctuated, whether capitalized,  
 23 abbreviated, singular or plural, printed or stylized, whether alone or in combination with any  
 24 word(s), punctuation or symbol(s), and whether used in caption, text, orally or otherwise, or any  
 25 other reproduction, counterfeit, copy, colorable imitation or confusingly similar variation of the  
 26 CERMAX and CERMA ADVANCED LUBRICATION TECHNOLOGY mark, as a trademark  
 27 or service mark, trade name or domain name, or using such a mark in the advertising, distribution,

1 sale, or offering for sale of any products or services.

2 **CERTIFICATION UNDER LOCAL RULE 65-1(b)**

3 Defendants hereby certify that, pursuant to Local Rule 65-1(b), counsel applying for the  
4 temporary restraining order delivered notice of this motion to the email address of opposing  
5 counsel on February 23, 2010, as detailed in the accompanying declaration of counsel, before the  
6 day of the *ex parte* motion.

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9 Dated: February 23, 2010

CRAIGIE, McCARTHY & CLOW

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11

12 /s/ James M. Hanavan

13 By: James M. Hanavan  
14 Attorneys for Defendants  
15 SAFER TECHNOLOGIES, INC.,  
16 CERMA TECHNOLOGY, INC.,  
17 GEORGE ACKERSON,  
18 MARY STRANAHAN,  
19 NICHOLAS STREIT and  
20 EDWARD HALBACH